

SENATE BILL 1145

By Gresham

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6; Title 53 and Title 71, Chapter 3, relative to food additives.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act may be cited as the “Restricting Synthetic Dyes in Foods to Help Children with Hyperactivity and Other Behavioral Problems Act of 2009”.

SECTION 2. The general assembly finds and declares that:

(1) Three percent (3%) to ten percent (10 %) of school age children suffer from attention-deficit hyperactivity disorder (“ADHD”), which leads to decreased academic achievement, impaired relationships with family and peers, and heightened risk for later drug abuse;

(2) The centers for disease control and prevention estimates that ADHD imposes a societal “cost of illness” of \$36 billion to \$52 billion annually;

(3) In the early 1970s a California physician, Ben Feingold, reported that a diet lacking foods containing synthetic dyes, artificial flavorings, and naturally occurring salicylates (also lacking aspirin) helped some of his patients who had hyperactivity and other related behavioral problems;

(4) Since 1977, 25 double-blind, placebo-controlled studies on the impact of Yellow No. 5 and other food dyes on children’s behavior have been described in the scientific literature;

(5) Thirteen of these studies – including two sponsored by the British Food Standards Agency (“FSA”) and published in 2004 and 2007 – found that eliminating

certain synthetic dyes from food helped reduce hyperactivity and other behavioral problems in some children;

(6) Ignoring the large body of scientific evidence, the United States Food and Drug Administration (“FDA”) tells visitors to its website that there is “no evidence that food color additives cause hyperactivity or learning disabilities in children;”

(7) At the urging of the FSA and because of consumer concerns about artificial additives, some multinational companies selling foods in both Britain and the United States – including Kraft, Mars, Kellogg, McDonald’s, Coca-Cola, General Mills, PepsiCo (including Walkers/Frito-Lay and Quaker), and Haribo – use few or no food dyes in their foods sold in Britain, but use dyes routinely in many of their foods sold in the United States;

(8) On July 8, 2008, the European Parliament approved a measure requiring packaged foods containing certain dyes to bear a notice stating that the dyes “may have an adverse effect on activity and attention in children;”

(9) While the FDA requires that packaged foods containing food dyes disclose their presence on the packages’ ingredient statements, persons consuming food in restaurants and other food service establishments have no way of knowing if the food contains a food dye;

(10) Americans consume about one-third of their food in restaurants and other food service establishments;

(11) Because of the inherent difficulty that parents and children have in linking food dyes to behavioral problems, and because food dyes provide no health benefits, the appropriate public health approach to the scientific evidence on dyes’ behavioral effects is to remove dyes from the food supply or at least require warning labels on dye-containing foods.

SECTION 3. As used in this act:

(1) "Food dye" and "synthetic dye" mean the following eight substances: FD&C Blue No. 1, FD&C Blue No. 2, FD&C Green No. 3, Orange B, FD&C Red No. 3, FD&C Red No. 40, FD&C Yellow No. 5, and FD&C Yellow No. 6, as defined in volume 21 of the Code of Federal Regulations, sections 74.101, 74.102, 74.203, 74.250, 74.303, 74.340, 74.705, and 74.406;

(2) "Food service establishment" has the same meaning as defined in § 68-14-302(6); and

(3) "Principal display panel" has the same meaning as defined in volume 21 of the Code of Federal Regulations section 101.1.

SECTION 4. The state of Tennessee hereby encourages all manufacturers of packaged foods sold in this state that contain food dyes to state on their principal display panel the following warning: "Warning: The synthetic dyes in this food may cause hyperactivity and behavioral problems in some children" no later than July 1, 2011.

SECTION 5: The department of health and the department of education shall inform all school districts and child care agencies in this state of the studies on the effects of food dyes and discourage the sale or serving of any food that contains a food dye on its premises, including the sale of food items from vending machines.

SECTION 6. Tennessee Code Annotated, Title 49, Chapter 6, Part 23, is amended by adding the following as a new, appropriately designated section:

49-6-23___. After January 1, 2012, no public school shall sell or serve any food, including in vending machines on the premises, that contains a food dye.

SECTION 7: Tennessee Code Annotated, Title 71, Chapter 3, Part 5, is amended by adding the following as a new, appropriately designated section:

71-3-5___. After January 1, 2012, no child care agency or center shall sell or serve any food, including in vending machines on the premises, that contains a food dye.

SECTION 8. This act shall take effect upon becoming law, the public welfare requiring it.